UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/149
2 April 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 10 March 1998 from the Permanent Mission of the Democratic Republic of the Congo to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

The Permanent Mission of the Democratic Republic of the Congo would be grateful if the secretariat of the Commission on Human Rights would kindly have the annexed note* circulated as an official document of the Commission at its fifty-fourth session under agenda item 10.

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* The annexed note is reproduced as received in the language of submission only.

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ANNEXE

Le Ministère des Affaires Etrangères de la République Démocratique du Congo présente ses compliments au Secrétariat Général de l'Organisation des Nations Unies et a l'honneur de se référer au document A/52/496 du 7 octobre 1997 et à la lettre du Rapporteur spécial n° 1,5 du 11 septembre 1997, faisant état des violations aux droits de l'homme qui auraient été commises en République Démocratique du Congo pendant la guerre de libération (octobre 1996 - 17 mai 1997), voire au-delà de cette période.

A titre de rappel, la République Démocratique du Congo a ratifié le Pacte International relatif aux droits économiques, sociaux et culturels; le Pacte international relatif aux droits civils et politiques ainsi que les Protocoles facultatifs s'y rapportant. Elle a également ratifié la Charte Africaine des Droits de l'Homme et des Peuples. Il en résulte un engagement d'assurer le respect de tous les droits de l'homme et de coopérer avec les organismes du système des Nations Unies et de l'Organisation de l'Unité Africaine concernés.

Le Gouvernement de la République Démocratique du Congo n'a nullement l'intention, à l'état actuel des choses, de maquiller la vérité, de déformer les faits ou encore moins de dire que tout est parfait en matière de droits de l'homme en République Démocratique du Congo, mais soutient que la plupart des allégations dont elle est victime ne sont ni suffisamment étayées par des preuves convaincantes et irréfutables, ni soutenues par des informations dont les sources sont fiables.

Car, les violations dénoncées par le Rapporteur spécial ont été commises, non par le nouveau régime (AFDL) mais plutôt par les éléments des forces armées du défunt régime dictatorial ainsi que par les bandits à mains armées qui ont volé armes et munitions lors de nombreux pillages commandités par l'ancien régime. A ceux-ci se sont ajoutés les ex-Forces Armées Rwandaises (FAR) et les Interhamwe qui se sont introduits dans notre pays avec armes et munitions, important ainsi leur guerre sur notre territoire.

.../...

Le Gouvernement de la République Démocratique du Congo, issu de la Guerre de Libération, n'est à comparer ni avec les gouvernements de la Deuxième République, ni avec les Gouvernements de « Transition » sous le régime antérieur. C'est un Gouvernement avec des hommes et des femmes déterminés à faire table rase du passé et à bâtir un Etat de droit et une démocratie non pas verbale mais fondée sur le respect des droits de l'homme tels que définis par les instruments internationaux pertinents auxquels il a adhéré.

I. ETAT DES LIEUX

Inexistence de l'Etat

Si au niveau de la capitale, l'Etat fonctionnait, par contre dans l'arrière pays il était absent. Là où les structures étatiques étaient présentes, elles étaient utilisées par les tenants du pouvoir pour leurs intérêts, en écrasant généralement la majorité de la population. Malgré la volonté de se doter d'un Etat de droit, exprimée notamment au travers des travaux de la Conférence Nationale Souveraine, les différents gouvernements qui se sont succédés sous la longue transition mobutienne, n'ont pas été en mesure de traduire cette volonté en acte.

Dysfonctionnement des institutions étatiques

Les Institutions étatiques n'ont pas normalement fonctionné pendant la Deuxième République, ce qui a entraîné à la fois le vide et le dédoublement institutionnels.

.../...

L'Insécurité des personnes et des biens

A cause de l'inexistence de l'Etat, les personnes et les biens n'ont pas été sécurisés lors des différents pillages ayant entraîné mort d'hommes.

Violation des droits fondamentaux

Les droits fondamentaux de la personne humaine, à savoir le droit à la vie, au logement décent, à la sécurité sociale, aux soins médicaux, aux allocations au chômage n'ont pas été respectés pendant la Deuxième République.

II. RENAISSANCE D'UN ETAT DE DROIT

1. Le décret constitutionnel 003.

Après la disparition du pouvoir dictatorial, il s'était créé un vide institutionnel qu'il fallait combler dans l'immédiat. C'est ainsi que le Président de la République a signé le décret-loi constitutionnel n° 003/97 du 27 mai 1997 relatif à l'organisation et à l'exercice du pouvoir en République Démocratique du Congo.

.../...

2. Restauration d'un Etat de droit et le processus démocratique

Il y a lieu de noter que la Commission constitutionnelle est à pied d'oeuvre et soumettra d'ici peu un projet de constitution. Ce processus inclut d'autres étapes, notamment la mise en place d'une constituante, le recensement de la population, le référendum, les élections législatives et présidentielles etc... Le Gouvernement s'est donné un délai de transition de deux ans pour mieux asseoir les institutions nationales.

3. Sécurité des personnes et des biens

En ce qui concerne la consolidation de la paix intérieure, le gouvernement a pris une série de mesures notamment :

La mise en place d'une véritable armée nationale vouée au respect des valeurs républicaines et patriotiques.

Le rétablissement d'une police nationale pour sécuriser la population et maintenir l'ordre public.

Le Gouvernement a, en outre, renforcé son système de sécurité en mettant à la disposition de l'Agence Nationale de Renseignement (ANR) et du Conseil National de Sécurité (CNS), les moyens appropriés leur permettant d'assurer une meilleure protection des citoyens et de leurs biens dans le cadre du respect des droits de l'homme. Par ailleurs, le Gouvernement

.../...

a créé une Direction Générale des Migrations dégagée de toute idée de police politique. Il a plutôt créé un service soucieux de la sécurité publique, humaniste, légaliste et préventif.

S'agissant du pouvoir judiciaire, il est constaté qu'il fonctionne de façon indépendante. Les Cours et Tribunaux rendent justice en toute liberté et sans injonctions. Le déroulement de la carrière des magistrats et les promotions en grade se font selon les dispositions statutaires des magistrats. Et l'autorité n'intervient que pour sanctionner les promotions. Parmi les autres innovations, la création d'une cellule des droits de l'homme au sein du Ministère de la Justice dont le rôle est de veiller au respect des droits de l'homme.

4. Les libertés publiques

Quant à la question des droits civils et politiques, il y a lieu d'apporter les précisions suivantes : à la prise du pouvoir par l'Alliance des Forces Démocratiques pour la Libération du Congo (AFDL), une situation d'anarchie avait élu domicile sur la scène politique nationale avec la présence des partis politiques à coloration tribale et autres, avec des objectifs obscurs. Pour y mettre un terme, l'AFDL, soucieuse de préserver la cohésion nationale, a décidé, par le canal du Gouvernement de mettre en veilleuse, pour un temps déterminé, les activités des partis politiques pour une période de deux ans, au terme de laquelle les élections libres, démocratiques et transparentes seront organisées, cela avec le concours de la Communauté internationale.

.../...

La démarche suivie par les nouvelles autorités ne semble pas avoir convaincu tous nos partenaires sur la bonne foi du Gouvernement de la République Démocratique du Congo, car, pour beaucoup d'entre eux, les paramètres de la démocratie sont uniquement constitués par les activités politiques, les marches de soutien, les journées villes mortes, les conférences de presse de par le monde, les invitations à boycotter tout investissement dans le pays, le retour aux affaires des anciens dignitaires, la surenchère politique à laquelle se livraient les partis antagonistes etc., mais l'on semble oublier que le pays sort d'une longue dictature sanglante qui l'a complètement déshumanisé et suffisamment affaibli sur le plan économique. Au vu de ce qui précède, le Gouvernement de la République Démocratique du Congo, qui est un Gouvernement légitime et accepté par la communauté nationale et internationale, a pris la décision de suspendre momentanément les activités des partis politiques afin d'empêcher que le pays ne sombre dans le chaos. Il sollicite, en conséquence, la compréhension de la communauté internationale pour que la paix, source de prospérité et de développement durable, revienne dans notre pays.

Par ailleurs, la liberté de presse et d'opinion étant garantie par la loi, le non respect de celle-ci ne peut entraîner que des mesures administratives contraignantes prévues à cet effet avec toutes les conséquences que cela implique. A titre illustratif, aucun organe de presse n'a été ni interdit ni saisi depuis la prise de pouvoir par l'Alliance des Forces Démocratiques pour la Libération du Congo (AFDL).

Toutefois, les mesures prises à l'encontre de certains hommes politiques doivent être comprises comme des restrictions et non comme des peines d'emprisonnement.

Pour ce qui est des droits économiques, sociaux et culturels, la République Démocratique du Congo a déjà fait des progrès dans le domaine de la jugulation de l'inflation et s'est engagée dans un plan triennal de reconstruction nationale.
Ce qui constitue une preuve tangible de la volonté de son Gouvernement d'améliorer le vécu quotidien de sa population.

Ce plan privilégie la réhabilitation des voies de communication ainsi que l'agriculture. A ce sujet, des actions ont déjà été initiées. Ainsi, tout pays qui en a les moyens, mais qui ne s'engage pas à aider la République Démocratique du Congo dans son programme de reconstruction, doit assumer sa part de responsabilité dans le retardement de la pleine jouissance des droits économiques, sociaux et culturels du peuple congolais.

Pour revenir aux circonstances particulières dans lesquelles a évolué la République Démocratique du Congo, le Gouvernement de Salut Public note à ce sujet que toute révolution s'accompagne d'un désordre, car, il suppose qu'un ordre ancien doit faire place à un ordre nouveau. Le Gouvernement a dû supporter de multiples accusations concernant des abus commis par les ex-FAZ (Forces Armées Zaïroises), des bandits habillés en militaires, les ex-FAR et les Interhamwe. En matière de sanction, le Gouvernement

de Salut Public punit sans discrimination tous les auteurs d'infractions, qu'ils soient militaires de l'AFDL ou non.

De plus, face à la confusion qui a caractérisé cette prise de pouvoir, aucun Gouvernement n'aurait su tout contrôler dans un pays aux dimensions d'un continent. Le Rapporteur spécial affirme que les institutions judiciaires ne fonctionnent bien que dans la capitale et les grandes villes. Compte tenu de l'immensité du pays et des difficultés économico-financières, il reconnaît implicitement le droit de la République Démocratique du Congo à se faire assister par la communauté internationale pour résoudre ce problème.

A l'actif du Gouvernement de Salut Public, aucune institution nationale ou internationale de défense des droits de l'homme n'a dénoncé le moindre acte de vengeance ni d'assassinat politique à l'encontre des anciens dignitaires de la Deuxième République. Les biens confisqués, notamment les immeubles et les véhicules font l'objet de restitution à leurs propriétaires sur ordre du Gouvernement. Un Office des Biens Mal Acquis a été mis en place pour apprécier chaque cas, conformément à la loi.

Toutes ces précisions apportées démontrent à suffisance que la République Démocratique du Congo s'est résolument engagée dans la voie du respect et de la promotion des droits de l'homme, quoiqu'en dise ses détracteurs, mais la République Démocratique du Congo a besoin pour continuer son

effort, d'être soutenu par la communauté internationale à qui peut, par ses atermoiements, contribuer à la dégradation des conditions propres à assurer le renforcement de la protection des droits de l'homme.

Une série d'actions promotionnelles des droits de l'homme est en train d'être organisée en République Démocratique du Congo, notamment par :

l'ouverture d'un Office du Haut Commissariat des Nations Unies aux Droits de l'Homme, qui travaille en étroite collaboration avec les ONG chargées des questions des droits de l'homme ainsi qu'avec les institutions gouvernementales. Cette collaboration a été concrétisée par des séminaires, l'un regroupant les ONG des droits de l'homme (décembre 1997) et l'autre, les différentes instances gouvernementales (mars 1998), cela avec pour finalité à court terme l'élaboration d'un plan national de promotion des droits de l'homme ;

la prolongation de la Mission d'Enquête des Nations Unies sur les présumés massacres dans l'Est du pays jusqu'au 31 mai 1998 alors que le mandat devrait prendre fin le 28 février 1998.

l'insertion d'un cours des droits de l'homme dans les programmes de l'enseignement primaire et secondaire.

C'est pour l'ensemble des raisons évoquées ci-haut que le Gouvernement de la République Démocratique du Congo prie instamment la Commission des Droits de l'Homme de tenir compte de ce qui précède et de soutenir la République Démocratique du Congo dans ses efforts pour la promotion des droits de l'homme, et pour la reconstruction nationale actuellement en cours.

UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1998/150
27 March 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 25 March 1998 from the Permanent Mission of Myanmar to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

The Permanent Mission of the Union of Myanmar to the United Nations Office at Geneva presents its compliments to the secretariat of the fifty-fourth session of the Commission on Human Rights and has the honour to enclose herewith* a copy of a memorandum concerning the situation of human rights in Myanmar.

The Permanent Mission would be grateful if the aforementioned document could be circulated as an official document of the fifty-fourth session of the Commission on Human Rights under agenda item 10.

* The annex is reproduced as received in the language of submission only.

GE.98-11383 (E)

Annex

Memorandum Concerning the Situation of Human Rights in Myanmar

Introduction

The current situation in Myanmar has to be considered as a whole to arrive at an understanding. Attempts to focus on disparate and discrete circumstances alone can only lead to distortion of reality. Comprehension of the situation is also dependent upon an adequate knowledge of background developments.

The Armed Forces of the Union of Myanmar, in the name of the State Law and Restoration Council, assumed the responsibility of the State in 1988 with the aim of saving the country from widespread anarchism and the threat of disintegration of the Union.

The three Main National Causes of the State has been the prevention of the disintegration of the Union, the building of national solidarity, and the perpetuation of sovereignty of the State. Towards the realisation of these causes, programmes were laid down to reestablish the prevalence of law and order, peace and tranquillity, the facilitation of smooth communication, and the upgrading of the economic development of the people.

In order to achieve a peaceful, prosperous and developed nation, clear goals and objectives are necessary. Subsequently the Government laid down specific political, economic and social objectives toward which, with the participation of the people, it has been aiming for.

One of the main priorities of the State Law and Order Restoration Council was the attainment of peace and national reconsolidation. Consequently, after unprecedented achievements in its national endeavours, the government has seen the country move away from a dire anarchic situation to one of peace and tranquillity, one with marked economic progress.

Keeping in line with the changed situation, the State Law and Order Restoration Council was dissolved on 15 November 1997. The leadership of the country was taken over by the newly-formed State Peace and Development Council and a new government, both of which comprise many new members from a younger generation in order to infuse a new dynamism in steering the country towards its set goals.

Throughout the past year, positive developments have continued to occur in all fields of common endeavour towards building a peaceful, prosperous and developed nation in accordance with the aspirations of the people of Myanmar.

This memorandum has been developed for the ready reference of the members of the Commission on Human Rights and observer delegations to enable them to understand better, the ongoing progress occurring in the Union of Myanmar. It is hoped that the respected members will not enter into a review of the situation in Myanmar with preconceived and biased ideas, but that rather, they will base their conclusions on a non-partisan and objective view while taking the many interwoven factors into account.

As a matter of policy, Myanmar does not condone human rights violations since it is committed to the principles enshrined in the Charter of the United Nations and the Declaration of Human Rights. For developing countries such as Myanmar, the most essential and fundamental basic right is the right to food, clothing and shelter, and for basic standards of living to be raised. Without this basic right, it would be difficult to implement

other aspects of human rights. The Government continues to give priority to the promotion of time-honoured values and traditions and to the rights of society as a whole.

Emergence of a New and Enduring State Constitution

The Government and people of Myanmar are convinced that a genuine multi-party democratic state can only be founded on a strong and enduring State Constitution.

Towards that end, the National Convention was convoked with representatives from the whole spectrum of the people of Myanmar. Through a process of free and open deliberations, and mutual accommodation, the Convention has already reached the halfway point in their work, with a consensus that the new State Constitution should be one based on a Presidential model, incorporating a National Assembly at the centre and a bicameral legislature, while States and Divisions would have their own legislatures. A greater degree of autonomy would be provided to the States and Divisions than was ever granted them since independence from colonial rulers.

At present, the delegates of the National Convention and the members of the National Convention Convening Committee and the National Convention Work Committee are in the process of studying the basic principles on the matter of power-sharing. Even though, the plenary of the National Convention is not in session, it does not mean that its work is at a standstill since these important and sensitive issues are under review by responsible persons. Once the National Convention reconvenes, the delegates will be able to focus their deliberations on the distribution of state powers.

Developments in the National Reconsolidation Process

In a country like Myanmar, where there are 135 different ethnic groups, unity among all national races is of paramount importance for the maintenance of independence, preservation of sovereignty and the all-round development of the nation.

Since the attainment of independence, Myanmar has been beset by the problem of armed groups fighting successive governments and efforts towards national consolidation have never been fully realised. However, less than one year after it assumed the responsibility of the State, the State Law and Order Restoration Council made strenuous efforts towards this seemingly unsolvable problem by inviting armed groups to return to the legal fold and to actively participate in regional and national development schemes.

As part of these efforts, the Government has made the development of border areas one of its top priorities. The reason for this was that the armed groups had made the remote border areas the base for their operations and in turn, these areas had been lagging behind the rest of the country in development for many decades. To date, the Government has spent over Kyat 4,600 million (or the equivalent of over US$ 600 million) which has resulted in the improvement and development in many sectors such as transport and communications, education, health, energy, agriculture and forest, livestock breeding, mineral exploration and mining, trade and cooperatives, housing, and public relations.

The Master Plan drawn up in 1994 outlined its main objective as the alleviation of poverty, in parallel with efforts to eradicate poppy cultivation in the remote border regions.

Such efforts have been recognized by the national races as those carried out with genuine goodwill on the part of the Government and this has resulted in the return to the legal fold of 15 out of 16 armed groups. A major drug trafficking group also surrendered

unconditionally en-masse also, while remnants of armed groups continue to "exchange arms for peace".

A major sign of the success of national reconsolidation has been that not only are members of the armed groups now taking part in their respective regional development projects together with the government and the people, but significantly, most of them are also expressing their views and aspirations at the National Convention.

The Government continues to extend an invitation to the Karen National Union (KNU), the remaining armed group, to return to the legal fold and to participate in the building of a new, peaceful, prosperous and democratic nation. It now lies in the hands of the leadership of the KNU to consider seriously what their main objectives for their people are, and to commit themselves to the most practical and sensible way of bringing peace and prosperity to the people they profess to speak for, in order to bring to an end the pointless bloodshed and seemingly endless life as refugees they say they have had to endure.

Endeavours in Combating the Drug Menace

The scourge of illegal drug abuse and trafficking is a threat to the right of the people to enjoy quality of life. Taken in a historical perspective, it will be seen that the seeds of narcotic drug abuse in Myanmar can be traced back to the nineteenth century, when the colonialists introduced the poppy plant into the northern regions of the country in order to finance their opium wars in China. At the same time, even in the face of strong objections made by the people and the Buddhist clergy, as well as by the American Baptist missionaries, opium dens were allowed to operate openly.

Recognising the detrimental effects of abuse and illicit trafficking of narcotic drugs on the whole moral fabric of society, Myanmar has always designated anti-narcotics measures as a national responsibility. Subsequently, the Government laid down the following national strategy:

- to designate drug eradication and prevention activities as a national duty and to perform this duty with increased momentum.
- to eliminate poppy cultivation by enhancing the standard of living of the national races.

To this end, the country has waged a relentless war against drug trafficking groups during which members of the Myanmar Armed Forces have had to pay dearly. During the period of 1988 to 1997, military operations against the drug traffickers took the lives of 776 soldiers while causing injuries to over 2300. It would indeed be difficult to find instances elsewhere in the world where lives and limbs have been sacrificed on such a scale for this noble cause, and where the fight against narcotic drugs is more pronounced or protracted.

But the military side is just one facet of the fight against the scourge of narcotic drugs. Drug control programmes take a three-pronged attack, aiming at supply reduction, demand reduction and law enforcement.

The effort to reduce supply involves the cooperation of the people of the border areas together with their leaders. Together with the government, the people carry out the destruction of poppy plantations whenever these are discovered. To date, over 80656 acres have been destroyed.

The production of illegal drugs has dramatically declined also due to the unconditional en-masse surrender of members of the Mong Tai Army (MTA) beginning

from January 1996. To date, more than 14,500 persons with nearly 9000 assorted arms and ammunition have surrendered. Their surrender is credited to their acceptance of the sincerity and the genuine goodwill of the Government towards the national races and the ongoing regional developments taking place in their regions.

Large-scale destruction of seized narcotic drugs are held from time to time, the last one being held in February in Yangon. Members of foreign missions in Myanmar as well as journalists are usually invited to attend the destruction of poppy plantations and seized narcotic drugs.

Drug education is incorporated in school curricula in order to make young people aware of the adverse effects of drug abuse and multiplier courses are also conducted on this subject for teachers and school principals. Drug abuse demand reduction activities are also being implemented by the Department of Health. Provision of health care services, after care, drug education, training, and research are the main functions of the health sector.

A recent accomplishment of note achieved by the Government of Myanmar in its drug control programme has been the declaration of the Mongla region in the Eastern Shan State as a "opium free zone"in April of last year. Similarly, a three-year project has been initiated in the Northern Shan State Special Region 2 in 1997, while the year 2000 has been set as the target date for Special Region 1, for the establishment of additional opium free zones. Plans drawn up for the 1997/98 season of poppy cultivation involve crop substitution with tea, wheat, corn and buckwheat on more than 23,000 acres in the Northern Shan State where poppy used to be the main crop.

A wide gap exists in the forecasts on the acreage and production of opium, made respectively by Myanmar and by the United States of America. The data from Myanmar is based on actual ground survey whereas the American method is based on satellite imagery which fails to take into account crop failure due to changing weather conditions and wastage during the harvest. Nor does it make any allowances for poppy cultivation crops that are uncovered and destroyed. With a view to obtaining accurate Base Line Data without discrepancies, a nationwide campaign for the statistical compilation has been initiated, with the participation of government agencies, NGO's, and local inhabitants of the respective areas.

Recognizing the role of the international community in combating illicit production of, demand for, and trafficking in narcotic drugs and psychotropic substances, the Union of Myanmar, together with the People's Republic of China, the Lao People's Democratic Republic, the Kingdom of Thailand, and the UNDCP, signed a Memorandum of Understanding in 1993, to expand and to strengthen cooperation in the common fight against illicit drugs. In 1995, the MOU was extended to include Cambodia and Vietnam as well. The role and mandate of the UNDCP is recognised, as evidenced in this agreement.

The Government of the Union of Myanmar has also entered into agreements for mutual cooperation in the fight against the illicit production, sale, trafficking and distribution of narcotic drugs with neighbouring countries. Bilateral agreements were signed with India in 1993, with Bangladesh in 1994, with Vietnam in 1995, with the Russian Federation and with Laos in 1997. During the State Visit of the President of the Philippines, H.E. Mr. Fidel Ramos to the Union of Myanmar last year, a bilateral agreement in this field was also signed between the two countries.

After attaining full membership in the ASEAN, the Union of Myanmar has now joined hands with other ASEAN members in the fight against drug abuse in the region. The main areas of collaborative efforts comprise of the setting up of a standardized data collection

system in order to make inter-country comparisons and to facilitate the sharing of experiences and information. Other areas of collaboration between member countries include the updating of treatment methods and research findings, and training of staff members working in the drug abuse field.

In May of last year, the Myanmar authorities handed back to Thailand Li Yun Chung, the notorious drug trafficker who was apprehended in Myanmar after he escaped from a top security detention centre in Thailand. This made it possible for the drug trafficker to be extradited to the United States to stand trial in a case involving one of the world's largest heroine seizures.

Myanmar is also co-operating with the Drug Enforcement Agency of the United States of America. Narcotic experts of the US State Department and the US Agriculture Department have carried out opium yield surveys in the Shan State since 1993, the fourth and most recent having been concluded this past February. There is also an ongoing exchange of information on narcotic drugs between the Central Committee for Drug Abuse control (CCDAC) and the DEA.

Myanmar is a party to the 1961 Single Convention on Narcotic Drugs and acceded to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances on 11 June 1996, and subsequently, the State Law and Order Restoration Council has passed a new Narcotics Law (Narcotic Drugs and Psychotropic Substance Law) to be consistent with the provisions contained in the 1988 Convention.

The Government and the people of Myanmar have always remained firm in their commitment and dedication to carry through the task of eliminating the national and international scourge of drugs despite limited resources. And it is their firm commitment and unwavering efforts that will continue to carry the country and its peoples towards achieving this noble goal.

Developments Regarding Relations with Political Parties

As a first step towards fulfilling its commitment to establish a disciplined multi-party democracy, the Government of Myanmar has allowed political parties to be formed according to the law.

Political parties with legal standing are at liberty to carry on with their work within the bounds of the existing laws of the land, and the rules and regulations laid down by the Government. Peaceful political activity within the law is permitted. Public assemblies, whether for small or large groups are allowed, unless these assemblies are used as an excuse for political elements to manipulate large crowds and create chaos in the streets.

Two years ago, the National League for Democracy (NLD), which had been participating in the National Convention process until November of 1995, attempted to hold a meeting with a view to drawing up a parallel State constitution. During that time, it was also holding weekend gatherings in order to inflame the people while slandering the Government and the Armed Forces.

On 22 and 26 May 1996, the NLD held an anniversary meeting attended by 70 party members, under the chairmanship of U Aung Shwe and a CEC member, without seeking the required permission. Although it has been alleged that the Government at that time arrested NLD members, the truth of the matter was that local authorities persuaded the NLD members in their respective jurisdictions to refrain from acts that might be tantamount to undermining the peace and stability, tranquillity, and prevalence of law and order in the country. Had they committed such acts, the authorities concerned would have been

required to take legal action against them under Law 5/96 which in turn would entail their imprisonment. The actions of the local authorities were done with good intentions and were purely of a preventive nature.

The NLD repeated the same process in May 1997. Again, they did not seek permission, in defiance of the existing laws. This can only be construed as a deliberate attempt to provoke the Government to take action against NLD members, with the ulterior motive of creating unfavourable international reaction. The Government acted with the utmost restraint, and took preventive measures, its only aim to safeguard peace and stability within the country. No one was arrested.

Another political party held a similar meeting in September 1997, but it was with the permission of the Government and its activities were carried out according tot he rules and regulations laid down. The NLD finally held a meeting in accordance with the law and after having received prior permission. It was a meeting, held on the 27 and 28 of September 1997 to commemorate its ninth anniversary, to which over 500 party members came and it passed without incident.

But once again, the NLD carried out youth organization activities in two townships in Yangon in late October without permission from the local authorities. Even though the authorities suggested that such activities be carried out in the compound of Daw Aung San Suu Kyi, for reasons of her security and for the maintenance of peace and tranquillity, the NLD persisted in defying the authorities. This led to action being taken against some of the members of the NLD, something that should never have happened had the NLD heeded the advice given them.

Earlier this year, with prior permission from the authorities, the NLD held large gatherings to commemorate the anniversaries of the country's independence Day and the Union Day.

Since the lifting of restrictions placed on Daw Aung San Suu Kyi nearly three years ago, the Government has taken responsibility for her personal security at her own request. Furthermore, in the view of the Government, as the daughter of the country's late national hero, on harm should come to her. During the course of efforts to protect her from untoward incidents, the Government has been accused of placing restrictions on her and on her party. In fact Daw Aung San Suu Kyi often visits heads of diplomatic missions in Yangon, such as those from the United States, France, Germany, Italy, Japan and Australia, and receives them as well as some of their staff members at her residence. NLD youths and members of the Central Women's Committee of the NLD also visit her residence almost everyday and carry on with party duties freely. The Central Executive Committee has also been holding meetings according to its schedule at the residence of Daw Aung San Suu Kyi. There have been no restrictions whatsoever on Daw Aung San Suu Kyi in her contacts, be they social or otherwise, either with members of the NLD or with foreign diplomats. These facts reveal that such allegations are unfounded.

The political process in Myanmar is essentially an internal affair. The Government, has its own agenda to systematically take one step at a time in implementing its avowed aim of creating a disciplined multi-party democracy. Part of this process is to hold talks with representatives of legally standing political parties.

Until its unilateral withdrawal from the National Convention in November 1995, the representatives of the NLD led by its Chairman himself, had been expressing their views at the Convention together with representatives from other legally standing political parties. As an act of good faith and in order to show a positive and conciliatory gesture towards the NLD, Secretary (1) of the State Law and Order Restoration Council met with its Chairman

on and two Executive Committee members on 17 July 1997. The two sides had a cordial discussion on matters relating to the future of the country.

With a view of continuing this important political process, Secretary (1) again extended a written invitation to the Chairman and two other Central Executive Committee members to meet again in September 1997. Even though the invitation was initially welcomed warmly by the Chairman and the two Executive Committee members, Secretary (1) and four high officials of the Government were stood up at the venue for the meeting where they were already waiting. A liaison officer intimated that the Chairman of the NLD could not attend the scheduled meeting since "he was not at liberty" to engage in any discussions with the Government in the absence of Daw Aung San Suu Kyi.

It is indeed regrettable that the overtures of the Government to the NLD in an attempt to achieve political progress through dialogue was thus rejected out of hand, in what can only be seen as the NLD placing personal interests over those of the party. The NLD persists in refusing to take part in a constructive political process, preferring instead to follow a destabilising route towards the achievement own political goals.

The Government nonetheless continues to exercise the utmost tolerance and restraint when dealing with the NLD. The Government, together with the people will continue in their resolute commitment to establish a genuine and disciplined multi-party democracy and will not waver from the political agenda laid down.

Myanmar's Participation in Regional Affairs

The Union of Myanmar pursues an independent and active foreign policy and maintains friendly relations with all countries of the world. At the same time, it maintains close and cordial ties with all neighbouring countries. Its policy of upholding the five principles of peaceful co-existence in its international relations is well known to all.

This stands in good stead as Myanmar, on 23 July 1997, together with the Lao People's Democratic Republic, was admitted as a full member of the Association of Southeast Asian Nations. With this admission, not only has the vision of the founding fathers of ASEAN been brought closer to realization, but it has also brought with it the prospects for regional peace, stability and prosperity, which in turn will contribute to the preservation of international peace and stability.

As the Foreign Minister of Myanmar has stated in his statement made at the Asia society in New York on 30 September 1997: "Myanmar's participation in ASEAN, in my view, can only be that of a constructive, positive nature. The continuation of constructive consultations with our ASEAN colleagues will facilitate our process of political, economic and social reforms ..."

Not only is Myanmar determined to fulfil its responsibilities and obligations as a member of ASEAN at both the national and regional levels, it is also poised to play an active role in regional economic cooperation by joining BIST-EC (Bangladesh, India, Sri Lanka and Thailand - Economic Cooperation) in August 1997.

Several bilateral visits between the leaders of Myanmar and those of neighbouring countries have taken place during the past few years. These bilateral visits have shown the existence of deep trust and understanding between the leaders of the region. Myanmar's successful integration into the region has contributed to regional peace and stability.

Cooperation with the United Nations

The Union of Myanmar has always upheld and adhered to the basic norms of human rights enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights. It has constantly cooperated with the United Nations in all fields including that of human rights to the fullest extent possible.

Myanmar participated in the drafting of the 1948 Universal Declaration of Human Rights and has signed or acceded to various other human rights-related International Conventions. The most recent development has been its accession to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in July of last year. This is the second important human rights related UN Convention to which Myanmar has acceded since the assumption of duties of the State by the present Government. Myanmar became a State party to the UN Convention on the Rights of the Child in 1991.

Apart from acceding to such international conventions, the State Law and Order Restoration Council has enacted numerous domestic legislation relating to human rights such as the Child Law, and the Myanmar Maternal and child Welfare Association Law.

The Government of Myanmar has been conducting a dialogue with the United Nations since 1994 with the aim of discussing issues of mutual interest. The following reveals the events that have taken place so far:-

- During the 49th Session of the United Nations General Assembly, the Minister for Foreign Affairs of the Union of Myanmar had a meeting with the Secretary-General of the United Nations.
- Several rounds of discussions were also held between the Foreign Minister and the Under Secretary-General for Political Affairs of the United Nations.
- Under Secretary-General Mr. Raffeeudin Ahmed, Representative of the United Nations Secretary-General and Mr. Alvaro de Soto, Assistant Secretary-General for the Political Affairs of the United Nations, visited Myanmar in 1994 and 1995 respectively, and held discussions with the Myanmar authorities.
- In June 1996, U Ohn Gyaw, Minister for Foreign Affairs of the Union of Myanmar, had discussions with Mr. Francesc Vendrall, Director of East Asia and the Pacific of the United Nations, in Bangkok, Thailand.
- Further rounds of talks between Mr. Alvaro de Soto and U Ohn Gyaw were held at the United Nations Headquarters in New York on 10 October 1996.
- In February 1997, Mr. Francesc Vendrall visited Myanmar and had rounds of talks with the Myanmar authorities.
- In May 1997, Mr. Alvaro de Soto paid a visit to Myanmar in his capacity as the Special Envoy of the Secretary-General after Mr. Kofi Annan assumed duty as the new Secretary-General. While in Myanmar, he met with Secretary (1) of the State Law and Order Restoration Council, the Minister for Foreign Affairs, and other high officials of the Government.
- While in New York for the 52nd Session of the United Nations General Assembly, the Minister for Foreign Affairs had another round of discussion with Mr. Alvaro de Soto.
- The Chairman of the State Peace and Development Council, Senior General Than Shwe met with the Secretary General of the United Nations Mr. Kofi Annan in Kuala Lumpur in December 1997.
- Mr. Alvaro de Soto visited Myanmar in January 1998 and held rounds of discussions with high officials of the Government. During his stay in Yangon, he also called on Secretary (1) of the State Peace and Development Council.

Apart from holding dialogues with representatives of the Secretary-General of the United Nations, Myanmar has made every effort to comply with the requests of the Commission on Human Rights. In 1990, Myanmar accepted the visit of Madame Sadako Ogata in her capacity as the Independent Expert of the Commission on Human Rights. Although Myanmar had dissociated itself from the Resolution of the Commission on Human Rights appointing a Special Rapporteur on the Situation of Human Rights in Myanmar, and has never accepted the appointment, it has nevertheless accepted the visit of Professor Yokota as the Special Rapporteur on many occasions in the spirit of co-operation with the United Nations.

However, the reports of the former Special Rapporteur only reproduced unfounded and unproved allegations that emanated from dubious politically motivated sources. His reports failed to reflect the true situation in Myanmar, although he had been provided with the opportunity to witness many positive developments occurring in many parts of the country. As a result, the situation in Myanmar was unjustly and negatively portrayed. Therefore, it has become necessary for the authorities to assess the whole situation once again, about whether such visits are really beneficial to the country at this juncture.

Conclusion

The present Government of the Union of Myanmar is laying the foundation for the establishment of multi-party democracy, taking into account Myanmar's past experiences, its tradition and its culture.

The main problem the country is having to face today stems from the misunderstanding among its national races which is a legacy of the past colonial policy of "divide and rule". National unity being the only solution to this fundamental problem, it is of utmost importance for the government and all the national races to strive to achieve national unity. It would be difficult to tackle other peripheral issues without being able to solve this basic problem. And that is the reason why the Government is giving priority to the attainment of national unity, while at the same time it is endeavouring to meet the basic needs of its people, such as food, clothing, shelter and the right to live in peace and stability.

The present is still a time of transition and democracy has yet to function in the country. However, many positive changes have taken place and are continuing to do so. Unfortunately, due to limitations of space, this memorandum does not cover developments regarding the economic and social situation in Myanmar, the administration of justice and the judicial system, the role of the Tatmadaw in the future of the State, the traditional contribution of labour by the people, the process of repatriation and reintegration into society of returnees and the Government's cooperation with UNHCR. However, these aspects have been comprehensively incorporated in the Human Rights Commission documents E/CN.4/1997/123 and E/CN.4/1997/124 of the previous year.

It is regrettable that persons from certain quarters, both within and without the country, refuse to accept the achievements of the present Government. Very little recognition has been given to any positive aspect whereas the smallest negative aspect is seized upon and magnified. Credence is unfortunately given to unsubstantiated allegations rather than to concrete evidence. Every country has different sets of circumstances, all interwoven with each other and it would be a mistake to assume that a small part that has been over-focused on reveals reality as a whole.

The Observer Delegation of Myanmar is of the view that there exists no valid ground whatsoever for introducing a resolution on the situation of human rights in Myanmar at this session of the Commission.

With the cooperation extended on the part of the Government of Myanmar, and with the positive progress and efforts it has made as outlined in the foregoing, it is hoped that the Commission will reciprocate by understanding the current problems in their historical perspective, by viewing the situation in its entirety rather than through any perceived negative aspects, by taking a balanced view on the consideration of the question, and by not pursuing any course of action that may hamper the democratic process being undertaken in the country as well as the ongoing constructive cooperation between Myanmar and the United Nations.

Should a draft resolution be introduced at the current session of the Commission on Human Rights, the foregoing considerations require that such a draft be fair and balanced, while accurately reflecting the positive developments taking place in the Union of Myanmar.

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